MOSES KOTANE LOCAL MUNICIPALITY

Standard Operating Procedures

Supply Chain Management

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1. INTRODUCTION

1.1 **Purpose**

The purpose of this Standard Operating Procedure (SOP) is to document the procedures to provide UNDP staff with an efficient and consistent way of procuring goods and services needed to support the operations of the business. It establishes the criteria for requesting, approving, ordering and receiving goods and services as well as tracking orders and monitoring services delivery throughout the procurement cycle.

1.2 **Abbreviation**

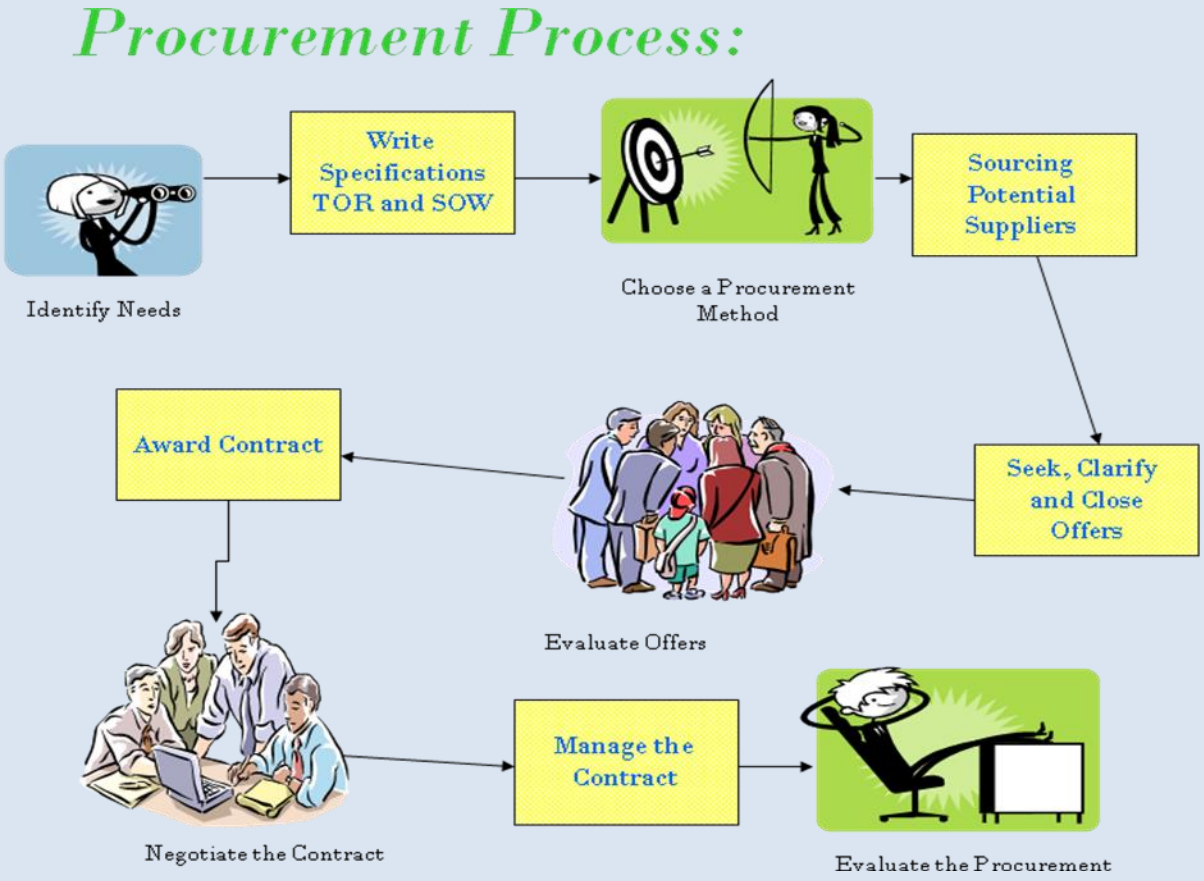
Item	**=**	**goods, works or service**
icw	**=**	**in conjunction with**
n/a	**=**	**not applicable**
AO	**=**	**Accounting Officer**
BAC	**=**	**Bid Adjudication Committee**
BEC	**=**	**Bid Evaluation Committee**
BEE	**=**	**Black Economic Empowerment**
BBBEE	**=**	**Broad-Based Black Economic Empowerment Act, No 53 of 2003**
BSC	**=**	**Bid Specification Committee**
CFO	**=**	**Chief Financial Officer**
CONS	**=**	**Constitution in RSA, ACT No 108 of 1995**
CIDB	**=**	**Construction Industry Development Board**
DTI	**=**	**Department of Trade and industry**
EM	**=**	**Executive Mayor**
GCC	**=**	**General Conditions of Contract (National Treasury)**
HDI	**=**	**Historically Disadvantaged Individual**
IDP	**=**	**Integrated development Plan**
IPFA	**=**	**Institute for Public Financial and Auditing**
MBD	**=**	**Municipal bidding Document**
MFMA	**=**	**Municipal Finance Management Act, No 56 of 2003**
MFT	**=**	**Municipal: Finance & Tenders**
MSA	**=**	**Local Government: Municipal systems Act, No 32 of 2000**
MST	**=**	**Local Government; Municipal Structure Act, No 117 of 1998**
MSCM	**=**	**Municipal Supply Business Council**
NEPAD	**=**	**New Partnership for African's Development**
NSBC	**=**	**National Small Business Council**
OMSCM	**=**	**Operational Manual for SCM, Moses Kotane**
PPPFA	**=**	**Preferential Procurement Policy Framework Act, No 5 of 2000**
RDP	**=**	**Reconstruction and Development Programme**
SAICA	**=**	**South African Institute for Chartered Accountant**
SALGA	**=**	**South African Local Government Association**
SAMDI	**=**	**South African Management Development Institute**
SANAS	**=**	**South African National Accreditation System**
SARS	**=**	**South African Revenue Service**
SCC	**=**	**Special Conditions of Contract**
SCM	**=**	**Supply Chain Management**
SCMGAO	**=**	**SCM Guide for Accounting Officers of Municipality**

SCMP	**=**	**Supply Chain Management Policy**
SCMU	**=**	**Supply Chain Management Unit**
SCMS	**=**	**Supply Chain Management System**
SCOPA	**=**	**standing Committee on Public Accounts**
SITA	**=**	**State Information and Micro Agency**
SMME'S	**=**	**Small, Medium and Micro Enterprises**
S57M	**=**	**Section 57 Managers**

2. PROCUREMENT LIFE CYCLE

2.1 **Key Steps In Procurement**

A basic principle for properly defined procurement life cycle is that managers should be given easy to understand and flow process flow to manage procurement, within a framework that satisfies the organizational policy requirements of transparency and accountability. Well defined procurement life cycle is a process whereby organizations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organization, but also to society and the economy.



2.2 **Motive of Properly Planned Procurement**

Properly outlined procurement processes must have an integrated approach to proper planning and management performance. Hence setting up of turnaround times for the entire process as well as continuous monitoring and evaluation of the overall supply chain management system must be done to ensure that:

- The set objectives and time frames for supply chain management processes are achieved;
- The objectives are consistent with Moses Kotane's broader policy focus;
- Compliance to approved norms and standards are maintained;
- Savings are generated wherever possible to the benefit of the community but should not be averted through poor quality workmanship or sub-standard goods or services;
- Supply of goods or services is operating efficiently and effectively;
- Contracts stipulations are adhered to and enforced at all times to the benefit of Moses Kotane;
- That the principles of co-operative governance as expounded in the Constitution are observed; and
- Uniformity in supply chain management practices; procedures and forms are kept in mind at all times.

2.3 **Benefits of Procurement Procedures**

Moses Kotane requires that all Departments observe the highest standard of ethics throughout the procurement process. In pursuance of this policy, Moses Kotane defines for the purposes of this provision, the terms as set forth below:

- "Corruption" means the offering, giving, receiving or soliciting, directly or indirectly of anything of value to influence the action of staff in the procurement process or contract execution;
- "Fraud" means the intentional, false representation or concealment of a material fact for the purpose of inducing another to act up on it to his/her detriment;
- "Collusion" means a scheme or arrangement between two or more bidders, with or without knowledge of Moses Kotane, designed to establish prices at artificial, non-competitive levels;
- "Coercion" means harming or threatening to harm, directly or indirectly, persons, or their property influence their participation in the procurement process, or affect the execution of a contract.

The Moses Kotane procurement process must allow bidders to compete for the municipality's business on a fair, equal and transparent basis. Staff associated with the procurement function, therefore are responsible for protecting the integrity of the procurement process and maintaining fairness in the municipality's treatment of all bidders or suppliers.

3. DELEGATION OF AUTHORITY

3.1 Section 115 of MFMA has assigned to the Accounting Officer the authority to implement in full the Supply Chain Management System of the municipality and in doing so take all reasonable steps to ensure that proper mechanisms and separation of duties are put in place.

3.2 Furthermore, sections 79 and 106 of the MFMA empower the accounting officer of a municipality and municipal entity respectively to delegate decision-making powers to officials in the municipality.

3.3 When delegating decision-making powers in supply chain management processes to officials the following principles apply to acquisition of goods and services and the disposal and letting of assets:

- All delegations must be in writing;
- No supply chain management duties or powers may be delegated or sub-delegated to a person who is not an official of the municipality / municipal entity or to a committee which is not exclusively composed of officials of the municipality;
- Should the accounting officer decide that the adjudication committee only awards bids up to a specified threshold value, bids above that threshold value should be referred to the accounting officer for finality;
- If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid, check whether that bidder's municipal rates and taxes and municipal charges are not in arrears and notify the accounting officer;
- The accounting officer may, after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee;
- If the deviation is rejected, the accounting officer may refer the decision of the adjudication committee back to that committee for reconsideration;
- The accounting officer may at any stage of the bidding process, refer any recommendation made by the evaluation or adjudication committee with reasons back to that committee for reconsideration of the recommendation;
- If a bid other than the one recommended in the normal course of implementing the supply chain management policy of a municipality or municipal entity is approved, the accounting officer of the municipality or municipal entity must, in writing, within 10 working days notify the Auditor-General, the relevant provincial treasury and the National Treasury and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendations. This, however, does not apply if a different bid was approved in order to rectify an irregularity.
- The accounting officer may ratify any minor breaches of the procurement processes by an official or committee acting in terms of the delegated powers or duties that are purely of a technical nature.

- Reports containing information regarding the individual amounts of the awards, the contractor(s) and the reason why each contractor was the successful bidder, must be submitted within five working days of the end of each month to the accounting officer if these bids were awarded under delegated powers by the chief financial officer, a senior manager or a bid adjudication committee of which the chief financial officer or a senior manager is a member. Similar reports must be submitted within five working days of the end of each month to the chief financial officer if bids were awarded under delegated powers by a senior manager who awarded bids up to a maximum value of R2 million or a bid adjudication committee of which the chief financial officer or senior manager is not a member.

3.4 In terms of 3.1 above the Accounting Officer/ Municipal Manager provides the following delegations and sub-delegations for the key duties in supply chain management as tabled below:

Description of duty/ power delegated	Delegated To	Sub-Delegated To
Endorsement bid specification document approved by BSC and approval of publication (taking into account determined notice period) to be placed	CFO	
Final award and approval of procurement for both goods and services based on accepted quotation or bid to the value inclusive of VAT of: R 0 > R 10,000	Section 57 Manager	HOU
Final award and approval of procurement for both goods and services based on accepted quotation or bid to the value inclusive of VAT of: R 10,000 > R 100,000	Section 57 Manager	HOU
Final award and approval of procurement for both goods and services based on accepted quotation or bid to the value inclusive of VAT of: R 100,000 > R 200,000	Section 57 Manager	
Final award and approval of procurement for both goods and services based on accepted quotation or bid to the value inclusive of VAT of: R 200,000 > R 2,000,000	BAC	
Final award and approval of procurement for both goods and services based on accepted quotation or bid to the value inclusive of VAT of: R 2,000,000 <	BAC recommend to MM	
Final award and approval of procurement for both goods and services based on accepted quotation or bid in terms of section 36 of supply chain policy	BAC recommend to MM	
Negotiation of final terms and signing of contracts for bid awarded to the maximum value of R2,000,000	Section 57 Manager	

Negotiation of final terms and signing of contracts for bid awarded above the value of R2,000,000	MM	
Approve the recorded reason for not obtaining three quotations and thereby allowing procurement to happen	CFO	
Approval or rejection of a bid adjudication committee decision to award a bid other than the one recommended by the bid evaluation committee	MM	
Approve the procurement of goods or services for the municipality under a contract secured by another organ of state, but only if- (a) the contract has been secured by that organ of state by means of a competitive bidding process applicable to that organ of state; (b) the municipality has no reason to believe that such contract was not validly procured; (c) there are demonstrable discounts or benefits for the municipality; and (d) that other organ of state and the provider have consented to such procurement in writing.	CFO recommend to MM	
Procure consulting services up to the value of R200 000 (VAT included) provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.	BAC	
Procure consulting services above the value of R200 000 (VAT included) provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.	BAC recommend to MM	
Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.	MM	
Decide to consider an unsolicited bid but only if- (a) the product or service offered is a demonstrably or proven unique innovative concept; (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality; (c) the person who made the bid is the sole provider of the product or service; and (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.	MM	
Award the bid or make recommendations to the accounting officer depending on the above stipulated delegated threshold.	BAC	
Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the supply chain management policy, and when justified-	MM	

(a) take appropriate steps against such official or other role player; or (b) report any alleged criminal conduct to the South African Police Service.		
Cancel a contract awarded to a person if- (a) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or (b) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.	MM	

4. INITIATION OF PROCUREMENT

4.1 **Choosing Procurement Method**

The departments can use a variety of procurement methods for the solicitation and tendering for goods, civil works and/or services. The method selected depends upon a number of factors including the type of good or service being procured as well as its value. The overall objective of the solicitation and tendering processes is to procure high quality goods, civil works or services as economically as possible. For Moses Kotane, this objective is best achieved through the transparent use of public funds and effective competition, which affects the choice of procurement method and the documentation and procedures that are used.

Procurement of goods, works and services, either by way of verbal / price quotations or through a competitive bidding process by invitation to bid or to make proposal must be within the following threshold values (VAT included):

Value of Procurement (Inclusive of VAT)	**Procurement Method**
Value below R2,000	Obtain requirement by means of petty cash procurement in accordance with internal prescribed procedures
Value above R2,000 and less than R10,000	Obtain at least three verbal quotations, preferably from the list of accredited prospective suppliers (supplier database). The names and prices of the prospective suppliers must be recorded. The order must be placed against written confirmation of the selected supplier.
Value above R10,000 and less than R200,000	Obtain at least 3 written quotations, if possible from database established for

	this purpose. For all procurement above R30000 the prescripts of the PPPFA and its related regulations are applicable. All requirements above R30000 must be advertised for at least seven (7) days on the notice board and website. Forward a summarized report of all procurement by means of quotations to the CFO on a monthly basis.
Value above R200,000	Use competitive bidding process

Note

* The above amount include VAT
* Procurement to the value below R200,000 will be channeled through SCM Unit
* SCM Unit to monitor preliminary processes in respect of procurement to the value above R200,000 but the procuring department has a central role

4.2 Procurement Scheduling

(a) Procurement planning is essential for the timely solicitation of quotations, bids or proposals; cost efficiency; award of contracts; and delivery of inputs. Procurement planning entails more than the selection of a procurement method for various goods and services and the timing of procurement activities but combines the legal and institutional frameworks in which procurement must be carried out

(b) This phase brings the supply chain practitioner closer to the end user, to ensure that value for money is achieved. The phase implies, among others, that during the municipality's strategic planning and budgeting process, the functions to be executed are determined as well as the goods, works and / or services needed to execute the said functions.

(c) Each financial year, the Municipality shall publish a SCM Plan setting out its current contracts and contracts to be procured including a copy of the capital programme and captured in project management system.

(d) Before the beginning of each financial year, the Municipality shall also publish a Listing of the contracts for services and supplies necessary to run its operations each financial year that require to be procured.

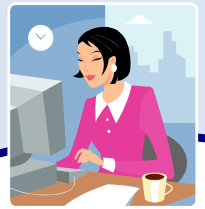
(e) The schedule below details step by step processes/ actions, key players and their roles as well as time frame for each process/ action within which it should be executed:

Overall Time-Frame:

7 Days

10 – 21 Days

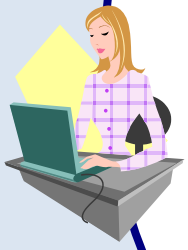
Total +: 30 Days



SCM

HOD

BSC



SCM

BEC

MM

BAC

1 Day

5. PREPERATION OF BID DOCUMENT

5.1 **Compiling Specifications**

5.1.1 Of great importance is that the initiating department, either by way of its own official or through making use of the service of a consultant should compile specifications document for the item required.

5.1.2 Your attention is drawn to the pre-requisites specification document should comply with.

5.1.3 The basis for bid evaluation and selection should be clearly outlined in the set of instructions to bidder or in the specifications itself.

5.1.4 The specifications should clearly set out -

(a) the prerequisites of the project;
(b) the goods to be supplied;
(c) the place of delivery or construction/installation;
(d) a time schedule for delivery or completion;
(e) minimum performance requirements;
(f) warranty required;
(g) security amount required;
(h) maintenance requirements;
(i) specific terms and conditions of the project;
(j) special conditions i.r.o contract
(k) the tests, standards and methods to be used to judge the conformity of equipment/ goods/services and its performance ;
(l) drawings to be consistent with text of specifications;
(m) alternatives that might be considered
(n) terms of payment
(o) whether site/explanatory meeting is to be arranged and whether it is compulsory to attend such a meeting;
(p) that no deviation from the said specifications shall be allowed unless good reasons for such a step should become apparent and the A/O shall make a final decision whether the specifications are to be amended where after all interested parties must be advised according.

5.1.5 Once the initiating department has compiled the specifications for a particular project or service, it must refer the specifications to the SCMU under cover of SCM 1, who will monitor whether the specification comply with all requirements of the SCMP and other legislation and that sufficient funds are available for such project on the current budget.

5.1.6 If the SCM is satisfied with specifications it will be submitted to the Bid Specification Committee for consideration and recommendation

5.1.7 NOTE that the A/O must approve the said specifications prior to the publication of invitation for bids in terms of para 22 of SCMP

5.1.8 NOTE that should an initiating department regard it necessary to compile specifications for an item with a transaction value not exceeding R200 000 (VAT inclusive), such specifications need not be referred to the Bids Specification Committee or the A/O for prior approval

5.2 **Bid Documentation for Competitive Bids**

5.2.1 See para 21 SCMP and give special attention to section 4.5.2 to 4.5.3 (pages 35 to 46) SCMGAO. It is utmost importance that all necessary documentation is compiled and made available to all prospective bidders for the sake of transparency and equality

5.2.2 National Treasury is adamant that the standardized bidding documents compiled by it should be used for all standard procurement of goods, works, and service. The following documents are contained in Appendix "1" for use in these instances:

MBD 1 -	Invitation to Bid
MBD 2 -	Application for tax clearance certificate
MBD 3.1 to 3.3 -	Pricing Schedule
MBD 4 -	Declaration of Interest
MBD 5-	Declaration for procurement above R 10,000,000
MBD 6.1 to 6.12 –	Preferential claims in terms of Preferential Procurement Regulations
MBD 7.1 to 7.3-	Formal Contract
GCC -	General Conditions of Contract

NB! If any particular circumstances exit, a set of special conditions of contract must be drawn up and form part of the bid document that are to be distributed – see section 4.5.2.9 SCHGAO (page 38)

- The standard wording of MBD 2 should not be amended.

- The formal contract documents (MBD 7.1 to 7.3) should not form part of the bidding documents issued to every prospective bidder documents issued to every prospective bidder but should rather be made applicable only to the successful bidder after adjudication and award of the bid to be furnished in respect of all bids must accompany all bids and be fully completed in respect of all bids above a transaction value of R 15,000 (VAT included) otherwise such bid may not be considered
- MBD 3.1 – to accompany bids (purchases) with firm prices
  MBD 3.2 - to accompany bids (purchases) with non-firm prices
  MBD 3.3 - to accompany bids for proposal service
- MBD 4 - to accompany all bids
- MBD 5 - to accompany all bids where procurement is expected to exceed R10. 000,000 (VAT inclusive)
- MBD 6.1 – to accompany all bids in respect of purchases.
- MBD 6.2 - to accompany all bids in respect of sales
- MBD 6.3 - to accompany all bids where promotion of small business are concerned
- MBD 6.4 - to accompany all bids claiming local content products
- MBD 6.5- to accompany all bids claiming empowerment of work force
- MBD 6.6 - to accompany all bids claiming development of human resource
- MBD 6.7 - to accompany all bids to uplift communities
- MBD 6.8 - to accompany all bids claiming export orientated product to create jobs.
- MBD 6.9 - to accompany all bids claiming promotion of enterprises located in a specific province
- MBD 6.10 – to accompany all bids claiming promotion of enterprises in specific municipal region.
- MBD 6.11 - to accompany all bids claiming promotion of enterprises in a specific municipal areas
- MBD 6.12 - to accompany all bids claiming promotion of enterprises located in rural areas.
- GCC - General Conditions of Contract to accompany all bids.
- SCC - Special conditions of Contract to accompany all bids where such conditions prevail.

The following documents only to accompany bidder's documents to whom final award has been made in the case of general supply of goods and service:

- MBD 7.1 - Purchase of goods/works contract
- MBD 7.2 - Rendering of Services contract
- MBD 7.3 - Sale of goods/works

In the case of building, engineering and construction project, the contract forms prescribed by CIDB must be used (see page 9 of CIDB 1009)

5.2.3 Apart from the above documentation the following documents should also be attached where applicable:

SCM 5 - Application for municipal tax and charges clearance certificate in respect of procurements above a value of R15 000 (VAT inclusive)
SCM 11 - Authorization by bidder to obtain his bank rating.

5.2.4 IRO OF BIDS RELATING TO BUILDING ENGINEERING AND CONSTRUCTION WOKS the following bid documents compiled by the CIDB must be used in lieu of the GCC referred to in section 5.2.2

CIDB 1009 – Preparing of procurement document and which document to be used

CIDB 1010 – Choosing an appropriate form of contract for engineering and construction works

CIDB 1012 - Best Practice Guidelines for Sub-contracting arrangements

CIDB 1015 - Standard Professional Service Contract

CIDB 1016 - Sub-contract for labour only in engineering and construction work

CIDB 1017 - Joint Venture Agreement

CIDB 1018 - General Condition of Purchase i.r.o engineering and construction works

CIDB 1019 - Contract for supply and delivery of goods in respect of building engineering or construction works

CIDB 1020 - Supply of goods (short contract)

CIDB 1021 - Supply Contract (full contract)

CIDB 1014 - CIDB Adjudication Procedure which will only be used when a dispute that cannot be resolved inter parties arises

5.3 **Bid Specification Committee**

In terms of section 27(3) SCMP the AO shall appoint members of a BSC that is composed as following:

- Four members including the chairperson of the committee
- For each member excluding the chairperson there shall be an alternative member appointed to fill-in the gap in the absence of the main member
- The Chairperson shall be appointed from the senior staff in infrastructure and technical services department
- Alternative Chairperson: If the chairperson is not available, members to elect one of the divisional managers to preside at meeting (section 29(3)
- Members

  - At least one member should be appointed from Supply Chain Management Unit in consultation with the CFO
  - Any consultant that had been appointed to draw up specifications for of the project on the agenda
  - At least one member should be appointed from the Legal Service Unit in consultation with HOD: Corporate Services
- Representative made up of senior officials from the department that is submitting specifications to be approved at that meeting must be present.
- Quorum: Chairperson (or alternate) plus at least two other members
- Recommendations by BSC to be by general consensus. If consensus cannot be reached in a particular instance, it must be referred to A/O for final decision.
- Secretariat: Administrative Clerk: SCM Support

5.4 **Procurement Requisitions**

5.4.1 No acquisition of any item shall take place unless adequate provision thereof has been made on the current budget, whether it is a capital or operational budget item.

5.4.2 Whenever a department requires an item, the initiator (i.e. the staff members who requires such an item) shall determine whether sufficient funds are available for the procurement thereof before issuing an official requisition there for to the SCMU.

5.4.3 The official authorized by the A/O or S57M to sign requisitions on behalf of the initiating department will again correlate whether the correct vote number is being used and that sufficient funds are available on the budget to acquire the item before signing the requisition as it is has/her responsibility to vouch for this.

5.4.4 Once signed, the requisition shall be dispatched to the SCMU for further processing. The SCMU will again monitor whether the correct vote number is being utilized and also whether sufficient funds are available on the budget for the purchasing of the item before executing the requisition.

Should there be any discrepancy on the requisition; the SCMU will refer it back to the initiating department for rectification before executing the order

[NB. If a vote number is overspent the signing officer of the initiating department as well as the SCMU will be held responsible]

5.4.5 Items that are used often and not too bulky for Stores(SCMU) to keep in stock shall be issued ex stock (e.g stationery, pens, taps, nails, screws, etc), keeping in mind that bulk purchases are cheaper than purchasing of single items.

5.4.6 Stores (SCMU) must at least six-monthly do an audit of all items held in stock to ensure that the shelf-time of such items warrants it being kept in stock and prevent that items kept in stock too long and run the risk of becoming obsolete. However, except where the CFO is of the opinion that special reasons exist for doing, stores shall not be carried by his or any other department in excess of what are in his opinion its normal requirements.

(a) In this regard the CFO and internal Audit should regularly monitor that proper stock registers are kept and maintained.

(b) The SCMU must at least annually provide all departments of a list of stock items so that the departments can plan the acquisition of such items efficiently and effectively.(See para 14(3) of SCMP)

5.4.7 The SCMU must procedure items not held in stock expediently from its list of accredited service providers which should be updated quarterly (See Para 14 of the SCMP).

5.4.8 Items up to a transaction value of R10000 (VAT included) may be procured by written or verbal quotations and for this purpose the form SCM2 in Appendix 1 must be used.

5.4.9 Items up to a transaction value of R200000 (VAT included) may be procured by formal written price quotations and for this purpose the form SCM3 in Appendix 1 must be used.

5.4.10 Although not necessary, the manager of the initiating department and/or the CFO may for some appropriate reason decide to compile specifications for goods, material or plant to be procured by means of a formal written price quotation for transactions up to a value of R200000 (VAT included) and while these specifications need NOT be approved by the bids specification committee, the following requirements must be compiled with:

(a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or material or workmanship should comply;
(c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
(d) may not create trade barriers in contact requirements in the form of specifications, plans, drawings, design, testing and test methods, packaging, marking or labeling of conformity certification;
(e) may not make reference to particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the item ,in which case such reference must be accompanied by the words "or equivalent"
(f) must indicate each specific goal for which points may be awarded in terms in terms of the points system set out in the Preferential Procurement Regulations 2001.

5.4.11 Where there is uncertainty about the quality of a particular item being procured, SCMU must request a sample of the article to be submitted with the quotation or if the item is too bulky, where such item may be inspected to ascertain its quality or standard to suit the municipality's requirements.

5.4.12 All procurements above R30000 (VAT inclusive) but below R200000 (VAT inclusive) must be advertised on the municipality's main notice board, the relevant department's notice board and the SCMU notice board as well as the website for a period of at least seven (7) days.

5.4.13 No negotiations with any service any service provider should be conducted unless it is in the opinion of the CFO to be in the interest of the municipality and such fact must be clearly recorded and signed by CFO.

5.4.14 The quotations received by SCMU upon closing date of quotations shall be referred to the initiating department for recommendation of the service provider to supply the requisitioned item(s), taking into account all requirements and rules set out in this section.

5.4.15 Upon receipt of the initiating department's recommendation, the Head: SCMU shall monitor whether all procurement requirements have been met and if satisfied , place the necessary order with the successful provider to deliver the goods at a location decided upon by relevant department and SCMU.

5.4.16 In case of any dispute between the initiating department and the SCMU in respect of any aspect regarding the requisitioning of items, the matter will be referred be referred to the CFO for decision and finalization of the order.

5.4.17 Your attention is once more drawn to Para 12(3) of the SCMP whereby no deliberate splitting into parts or items of lesser value on requisitions in order to avoid complying with the requirements of the SCMP will be tolerated. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated or dealt with as a single transaction.

5.4.18 Where the SCMU becomes aware of any unwarranted splitting referred to in Para 12.17 above, such actions(s) must be reported to the CFO immediately who will in turn advise the A/O.

5.4.19 Upon delivery of the item(s) by the supplier the SCMU will verify, either through one of its own officials or one of the initiating department's official that the-
(a) item(s) is/are in good order;
(b) correct quantity; and
(c) Correct quality

5.4.20 Upon delivery, the SCMU will immediately register receipt of all non-consumable items in the assets register allocate an identifiable asset number thereto, which should also be clearly displayed on the relevant item.

5.4.21 All invoices of goods received must be certified by initiating department that it is satisfied with the item and submit it to the SCMU for payment.

5.4.22 The SCMU must make suppliers aware that payment for goods and services rendered shall only be effected against submission of an official invoice of the supplier within (30) days of receipt, but payment can be effected earlier if-
(a) The municipality will benefit thereby through a reasonable discount being offered by the supplier for earlier payment; or
(b) The CFO is satisfied that prolonged payment may place a financial hardship on the supplier, especially an emerging contractor.

5.4.23 In case of emergencies or where certain item(s) can only be supplied by a sole provider, the rules this section can be dispensed with through prior approval by the A/O.(See para 19OMSCM)

6. SOURCING OF POTENTIAL SUPPLIER

6.1 **Prequalification**

6.1.1 The Municipality shall only enter into a contract with a contractor if it is satisfied as to the contractor's -
(a) eligibility
(b) financial standing
(c) technical capacity
(d) statutory requirements

6.1.2 Technical capacity includes the contractor's quality management systems including human resources, health and safety and environmental management systems where relevant to the performance of the contract.

6.2 **Suppliers Database**

6.2.1 The purpose of Lists is to provide names of firms whose competence has been checked, and to invite only those firms on the Lists to tender. This can save time because the contractors on those Lists have already been pre-vetted. In considering the suitability of firms to be recommended for inclusion on any List regard shall be taken of the following:
(a) the previous record of the firm in transactions with the Municipality, including tendering performance;
(b) the capacity of the firm to carry out work for the Municipality at competitive prices and to provide supervision and control;
(c) the firm's experience in relation to the category of work particularly for comparatively new firms;
(d) where appropriate, membership of an acceptable trade or professional association.
(e) the firm should indicate whether it has any relationship either directly or indirectly with any Member or employee of the Municipality.

6.2.2 Where there is a List in existence then that List must be used, as those contractors will have been previously vetted and thereafter continuously reviewed.

6.2.3 The basis of selection of those companies on the List to be invited to tender will be by way of strict rotation, which will be carried out by the SCM Official, for a minimum of 3 tenderers. Where firms have recently submitted a competitively

priced tender those firms can be added to the select List provided that they can accept the workload and have performed satisfactorily.

6.2.4 If the procurement of any value is fully funded by a third party, and if that third party so requests, then the name(s) of one or more contractor(s) may be added to the tender List or be the only tenderer(s) invited provided the List criteria are satisfied.

6.2.5 Review of the Lists is of the utmost importance and must be transparently fair. The SCM Head will, in conjunction with the appropriate Head:

(a) regularly and rigorously scrutinize the Lists and decide on the inclusion or deletion of contractors as the case may be;
(b) ensure that, in addition, a general review takes place at regular intervals and that the Lists are at all times workable, effective and competitive;

6.2.6 The appropriate Head will carry out within three months of the end of each contract, a contractor performance report/review, and will submit to the Head: SCM in a format prescribed, a Contractor Performance Report for consideration of the contractor's future status on the List.

6.2.7 When procuring services or goods using suppliers database, SCM practitioners must take cognizance of the following factors:

(a) Equitable treatment of all prospective providers
(b) Preferential allowance be made for BEE's, SMME's, local providers, etc. i.r.o procurement above R30 000 (VAT incl)
(c) Suitability of provider's range of product regarding quality, availability and satisfactory service rendering in the past
(d) A system of rotation amongst providers of the same product should prevail where price and quality are the same
(e) Whether provider is black-listed on National Treasury's data base (if this is the case his/her name should not appear on the list).

6.2.8 Prospective providers must be made aware of the fact that notwithstanding their name appearing on the municipality's list of suppliers failure on behalf of SCMU to forward notice inviting quotations or non-respect of such notices shall not invalidate the procurement process and that the onus rests on them to apprise themselves of the municipality's needs or requirements by way of press notices and notices on the municipality's notice boards.

6.2.9 Prospective providers names should be removed from the municipality's list if such provider -

(a) has been convicted of any offence under any law relating to dishonesty, fraud, wages, hour of work or other conditions of employment:
(b) fails or ceases to comply with the requirements of such approved list;
(c) performs unsatisfactorily work/performance measured on any of the following criteria;
- timeliness,
- quality
- price escalation, and
- service

and he has been informed accordingly;

6.2.10 sublets or cedes the whole or any portion of a contract for the supply of goods or the rendering of services in respect of which such list has been framed, to an enterprise or person whose name does not appear on that list, or otherwise acts in a manner which, in the opinion of the Municipality, is construed to nullify the object of having any such approved list;

6.2.11 has ceased to carry on business under that name

6.2.12 has been dealt with In terms of the Municipality's List Excluded Contractors; or been placed on National Treasury's Blacklist;

6.2.13 has shown little interest over a reasonable period to submit quotations when invited to do so or has not been awarded any business over a reasonable period due to non-competitive prices;

6.2.14 provided that before a name is removed from any approved list the enterprise or person concerned shall be notified of the nature of the of the complaint against it or him and shall be informed of the intention to remove him from the approved list unless sufficient reasons can be given by him why he should not be removed from the list.

7. OPENING AND RECORDING OF BIDS

7.1 **Requirement for Bid box**

7.1.1 Bids are to be placed in the bid box situated in the main foyer of the municipal offices during office hours.

7.1.2 The bid box is to be kept locked at all times and keys kept by an official of the SCMU as designated by the CFO from time to time. The key holder and another official of the SCMU must both be present when the bid box is opened to remove bids or place bulky bids in it

7.1.3 The bid box is only to be opened when:
(a) bids that are too bulky are to be placed in bid box
(b) bids are removed upon closure date and time of bids.

7.1.4 Since the time of removal of bids from the bid box until the bids are opened in public immediately thereafter, such bids must be under the constant surveillance of at least two officials in the SCMU.

7.1.5 Should bids be received through the post , the receiver shall not open the bid envelop but endorse it the time and date of receipt of a postal bid immediately arranged to have it placed in the bid box

7.1.6 Should a bid be opened accidentally if received through the post, such official must certify this fact on the bid envelope and affix his/her signature thereto, together with that of his/her supervisor before following the routine set out in 7.1.5

7.1.7 Should a bid be too bulky to pass through slit in bid box must arrange with an official and witness from SCMU to open bid box and place bid inside.

7.2 **Opening Bids**

7.2.1 Upon removal of the bids from the bid box on closing date, all bids shall be opened in public as soon as possible thereafter in the presence of the following official:

(a) The SCMU official in charge of the opening of bids;
(b) the assistant to the official mentioned in (a);
(c) an official from the department which initiated the bid;
(d) an official from Internal Audit

NB! Bidders and other interested party may attend the opening of the bids.

7.2.2 It is advisable to open bids on a particular day and time of the week (e.g. Fridays at 12:00) so that a set routine is followed to which bidders may get used to.

7.2.3 The official in charge of the opening of bids shall ensure that no bids that were not deposited in the bid box before the closing time be included with the valid bids.

7.2.4 Every bid shall be enclosed in a sealed envelope or package bearing on its exterior the particular bid no. and inscription as to the nature of the project/ item as advertised - This fact must be mentioned in advertisement. No bid not

complying with this requirement shall be opened by official in charge and such fact shall be recorded in the register of bids and rejected.

7.3 **Recording of Bids**

7.3.1 As soon as a bid has been opened –

(a) There shall be placed upon it the official stamp of the municipality, the signatures of the person who opened it and of a person in whose presence it was opened as prescribed in 6.2.1
(b) the name of the bidder shall be recorded in a register kept for that purpose; as well as the total bid amount
(c) the person who opened the bid shall forthwith place initials against every altered figure in the bid document
(d) one of the other officials present shall as witness.

7.3.2 Should a bidder or interested party at the opening of the bids so request, the official in shall read out the name of the bidder, the description of the project /item and the total of the actual bid and /or any alternative bid mentioned. No other information shall be divulged at the opening of bids.

7.3.3 After being recorded in the register mentioned in 16.3.1 the bids shall be handed over to the representative of the department concerned and he/she shall acknowledge receipt thereof by signing the register.

8. EVALUATION OF BIDS

8.1 **General**

8.1.1 Upon receipt of the bids for a particular item (goods, works or services) the initiating department shall evaluate all bids received timeously, according to the criteria laid down by this manual, the bid documents and specifications, etc.

8.1.2 The initiating department will submit a report to the SCMU for monitoring and verification that all criteria applicable have been followed in recommending the bids which have been disqualified for some for some valid reason. A Bid evaluation checklist (SCM 10) must be complete in respect of each bid.

8.1.3 The SCMU will add their comments to the initiating department's report and submit same to the BEC as soon as is practically possible.

8.1.4 Bids should be evaluated i.t.o criteria contained in bidding documents (see section 4.5.5.2.5 SCMGAO page 49). In cases where there is a difference of opinion between the initiating department and the SCMU, the two parties will first attempt to iron out their differences. If the matter cannot be resolved, the SCMU must still submit the original report of the initiating department together with their comments to the BEC for evaluation.

8.1.5 See SCMGAO section 4.5.5.2.5 (page 49) regarding rejection of all bids.

8.2 **Grounds for Disqualification of Bids**

8.2.1 Bids that do not comply essential elements of the GCC (General Conditions of Contract) and special conditions of contract.

8.2.2 Bids not complying with the specifications of the project.

8.2.3 If bidders full names (person/firm/company/close corporation, etc) is not furnished in the bid documents

8.2.4 Identification number or company or any other required registration number is not furnished.

8.2.5 Bidders tax number and VAT registration number is not furnished

8.2.6 Completed MBD 2 SARS clearance certificate is not furnished

8.2.7 Completed SCM 4 municipal clearance certificate is not furnished

8.2.8 Bidder or his/her spouse or other close family is in the service of the State

8.2.9 Bidder's name appears on the National treasury's black list data base as being prohibited from doing business with public sector.
[To ascertain this aspect, e-mail restriction@treasury.gov.za or enter National Treasury's website, www.treasury.gov.za and click on icon "Register for Tender Defaulters"]

8.2.10 Bidder submits an unsigned bid document or does not attach an acceptable form authorizing him/her to sign bid documents.

8.2.11 Bidder did not attend compulsory site meeting or pre-bid conference.

8.2.12 Bidder has been blacklisted by municipality for previous poor work performance and sub-standard products or fraudulent, dishonest behavior or in arrears with municipal rates or account.

8.2.13 If bidder cannot satisfy the municipality that he/she has the necessary experience and/or expertise to execute the contract

8.2.14 If bidder cannot satisfy the municipality that he/she has the financial ability and/or necessary equipment/tools/plant, etc to execute the contract successfully.

8.2.15 Preferential procurement document to be fully completed and signed, otherwise bid should be disregarded.

8.3 **Bid Evaluation Committee (BEC)**
[See para 28 SCMP]

8.3.1 The BEC shall comprise of the following official –
Chairperson: Departmental Manager Land, Housing and Environment.
Alternate Chairperson: If chairperson is not available, member are to elect one of the officials of the committee to preside at meeting (para 28(3))d
Members:
A member of SCM Compliance Unit. MR xxxxxx has been nominated with Mr xxxxx as alternative.

(b) At least two officials each from departments whose bids are to be evaluated. (If one should be a departmental manager but then he/she may not be a member of adjudication committee) PLEASE NOTE the requirements of para 28(1) of SCMP

(c) An official from the Legal Services nominated by the Divisional Manager Legal Services. Mr xxxxx has been nominated with Mr xxxxxxx

Secretariat: A member of Human Resource & Corporate Administration Department

8.3.2 The BEC shall take all factors regarding a bid into account according to the SCMP, SCMGAO and this manual and then make an evaluation thereof and submit it to the Bid Adjudication Committee for further attention or should any queries or uncertainty exist, refer it back to the SCMU for clarifications.

Quorum: Chairperson (or alternate) and at least 3 other members

- Recommendations by BEC to BAC to be by general consensus. If consensus cannot be reached in a particular instance, such fact must be clearly stated in recommendation to BAC as well as reasons why consensus cannot be reached.

9. AWARDING OF BIDS

9.1 **Adjudication of Bids**

9.1.1 SCMU must finalize drafting of the minutes of the BEC for each item considered by that committee within two days after the meeting. The initial report of each item submitted to the BEC together with the recommendations as will be contained in the minutes will be submitted to BAC for adjudication.

9.1.2 BAC should meet within seven days after BEC meeting and adjudicate bids according to the criteria contained determined based on SCMP in that particular bid.

9.1.3 At the BAC meeting, the official from the user department will be expected to present the bid report and to provide any clarity on the issues raised by the committee members.

9.1.4 In order to achieve quick turnaround time, in instance where the BAC requires clarity regarding the recommendations of the BEC or has queries in certain aspect thereof, the chairperson of BEC would requested to join the meeting and provides such clarity, otherwise such bids shall be referred back to the BEC for elucidation and re-submission.

9.1.5 The bids referred back should be considered again by BAC within seven days after the meeting the bids were initially considered.

9.2 **Awarding of Bids**

9.2.1 A contract may only be awarded by an Official or structure with the requisite delegated authority to award contracts as it is specified above under the delegation of authority. The Official or structure should ensure, prior to award, that the budget holder responsible for the contract has sufficient funds in place to sustain the contract.

9.2.2 The Municipality shall only award a contract where it represents Best Value. A contract shall only be awarded using the tender evaluation criteria – price, quality and preference.

9.2.3 Where the contract award process has not been finalized, no contractor shall be allowed on site.

9.2.4 Where the award is different from the recommendations made by the Bid Evaluation Committee, this must be substantiated and reported to the Auditor General, National Treasury and Provincial Treasury, via the Accounting Officer.

9.3 **Exceptional Awarding of Contract**

9.3.1 In terms of Section 36 of the Municipal Supply Chain Management Regulations, the municipality under circumstances thereof specified may deviates from, and make ratification of minor breaches of, procurement processes and such deviation must be reported to Council as well as to be included to the notes of the annual financial statements.

9.3.2 The following key points must be taken into cognizance when applying the provision of the regulations:

(a) It must be noted that poor planning does not constitute an emergency.

(b) An emergency is defined as an unexpected and sudden event that must be dealt with urgently and where there is an immediate threat to life and limb.

(c) In cases where it is impractical or impossible to follow the official procurement process it must be shown where and how the market was tested, why it is impractical to go to tender, the provider chosen was undertaken in a fair manner so as not to prejudice other potential providers, etc. where it would be against the Municipality's best interest to follow the proper procurement process.

(d) Reports that are submitted in accordance with Section 36 of the Supply Chain Management Regulations must be direct to the Bid Adjudication Committee, and thereafter the recommendations of BAC will be submitted to the Accounting Officer for approval.

(e) All reports of this nature should be signed by the Head: SCM or his delegate who will check:

- If the motivation if factual and is substantiated and amount to a sufficient reason for not going out to tender;
- If there is adequate funds;
- If the process is fair, equitable, as transparent as can be, and cost effective;
- If the Municipality can adequately account for making such a decision;

(f) The Accounting Officer must at all times guide against the improper use of this provision by all the above requirements are met and the reasons for any deviations are clearly recorded and reported as required.

9.3.3 The procurement of items required urgently or through emergency must be kept at an absolute minimum. However, if a truly urgent or emergency situation should arise in the procurement of items requiring the dispensation of the normal rules contained in the policy, a fully motivated report must be submitted by the initiating department to the A/O for consideration with the following details:

(a) Why ordinary route of procurement cannot be followed;
(b) What gave reason to urgency or emergency; alternatively why you regard this instance as an exceptional case where the normal procurement route is impractical and impossible;

9.4 **Reporting of such deviations to Council**

9.4.1 In cases mentioned under section 9.3 & 9.4 where the A/O approves procurements of this nature, the CFO must report such instances on behalf of the A/O to the council and include a suitable note thereof in the annual financial report, whilst a register wherein all such cases are recorded must be kept by the CFO

9.5 **Unsolicited bids**
{See Para 37 SCMP, section 113 MFMA and section 4.4.5.6 SCMGAO}

9.5.1 Each and every requirement stipulated in the above paragraph and sections mentioned must be compiled with when dealing with unsolicited bids and this type of approach should not be encouraged by Departmental Managers as it could be seen as an unfair and non-transparent practice to eliminate other interested parties.

10. APPOINTMENT OF CONSULTANTS

10.1 **General**

10.1.1 Your attention is directed to section 5.1 (page 60) SCMGAO as to who should be regarded as consultants. The appointment of a bank and IT specialists are dealt with under a separate heading in the SCMP (paras 30 & 31) These services should not be seen as consultants per se. Although not mentioned specifically, the appointment of a panel of attorneys to attend to the council's legal aspects which cannot be handled

by the council's legal division (e.g convincing, litigation, etc) should also be dealt with as a separate issue.

10.1.2 The fact that the SCMGAO devotes some thirty pages to the subject of consultants, stresses the importance of this issue and it should therefore be handled very carefully.(SCMGAO pages 60 to 90)The SCMP(para 35,page 31)does not place so much emphasis on this subject.

10.2 Important features regarding the appointment of consultants

10.2.1 Consultancy services must be procured through competitive bidding if-
(a) the value of the services exceeds R200 000 (VAT inc);or
(b) the duration of the contract exceeds one year.

10.2.2 Consultants must furnish particulars of-
(a) all consultancy services provided to an organ of State in the past five years; and
(b) any similar consultancy services rendered to an organ of state over the past five years.

10.2.3 Copyright in any document produced, and the patent rights of ownership in any plant machinery, thing, system or process designed or devised, by the consultant in the course of the consultancy service is vested in the municipality.
{This fact must be covered in the contract between the municipality and the successful consultant & also be stipulated in the bid documents}

10.3 Major considerations in Selecting Consultants

10.3.1 A/O to be guided by the following four (4) major considerations in selection process:
(a) Need for high quality services;
(b) Need for economy & efficiency;
(c) Transparency of selection process; and
(d) Need to give qualified consultants an opportunity to compete in providing their services

10.3.2 A/O to use QCBS (Quality –and cost-based selection)described in section 5.8.3 of SCMGAO (page 66)in selecting a suitable consultant. Where this system is not appropriate, consideration should be given to the other methods described in section 5.9 SCMGAO (page 77)

10.4 In appointing consultants there are the four (4) steps(stages) to follow in the selection process of consultants as described in SCMGAO

10.5 **Establishment of a Data-base of Consultants**

10.5.1 A data-base of approved consultants should be compiled in respect of consultancy services used on a recurring or regular basis

10.5.2 Consultants wishing to be appointed on the municipality's data-base/panel should apply by completing the relevant form (SCM 11) and submitting it to the SCMU for approval

10.5.3 Criteria to be taken into account when considering the appointment of consultants on the municipality's data-base are as follows:

(a) Composition of the firm in terms of shareholding;
(b) Personnel complement;
(c) Representation of expertise in respect of the disciplines required, e.g. accounting, legal, educational, engineering, computer etc;
(d) National/international acceptability of experts in the various professions;
(e) Experience as reflected in projects already dealt with;
(f) Financial position
(g) Set fees by their particular discipline or institute.

10.5.4 Once the panel/list of consultants of the various disciplines has been approved, only successful panel lists are to be approached, depending on the circumstances, either by obtaining quotes on a rotation basis or according to a bidding process when such services are required, without having to advertise in the press again, provided that the A/O or appointing authority may appoint a particular consultant due to his/her expertise or specialization of the specific service required, without making use of list or panel of consultants, but such fact should be recorded in writing.

10.5.5 Applications received should be evaluated according to a pre-determined standard of awarding point's i.r.o such applicant's qualifications, experience, acceptability, facilities and resource, etc.

10.5.6 The list should be updated regularly at least half-yearly

10.5.7 Consultants appearing on the panel must be evaluated regularly i. r .o their performance, services and abilities and if found to be lacking, should be advised

thereof and given an opportunity to improve themselves, failing which, they are to be removed from the panel and blacklisted from future appointment to the panel.

10.5.8 Consultants appointed to the municipality's panel will be required to enter into a formal agreement with the municipality.

10.6 **Appointing Authority**

10.6.1 The A/O hereby delegates appointing authority to allocate work to a particular consultant as follows:

(a) In respect of consultancy work up to an amount of R60000 or for a period of less than one year the departmental manager of the department seeking such a consultant.

(b) In respect of any consultancy work exceeding R60 000 or for a period longer than a year, the A/O shall make the necessary appointment in conjunction with the relevant Section 57 manager.

11. PROCUREMENT OF SPECIAL GOODS & SERVICES

11.1 **Two-stage bidding process**

Two stage bidding may be considered in exceptional circumstances as set out in section 25 SCMP and section 4.4.5.4 SCMG AO but should not be encouraged.

11.2 **Procurement of banking services**

It is important that the process for procuring a contract for banking services must commence at least nine (9) months before the end of an existing contract. Presently no contract with ABSA bank and Mogwase exists because it was not necessary for a municipality to procure bids for this particular service in the old dispensation.

11.3 **Procurement of it-related goods and services**

Please note that the municipality may but need not request SITA to assist with acquisition of this type of item. However the requirements contained in the Central Technology Acquisition Procedure attached as ANNEXURE "C" must be adhered to in procuring IT related items.

11.4 **Procurement of items under contracts secured by other organs of the state**

The stipulations of Para 32 must be compiled within these instances

11.5 **Procurement of goods necessitating special safety arrangements**

The A\O is of the opinion that the present situation of acquiring fuel (petrol & diesel)at the Stores Division is warranted but the CFO must investigate the situation

regarding present safety arrangements and precautions in respect of the storage thereof and if there is any concern about the present safety situation, rectifying steps should be taken to safeguard staff and equipment.

11.6 **Contracts providing for compensation based on turnover**

Where a service provider acts on behalf of the municipality to provide any service or act as a collector of fees charges or taxes and compensation payable to him/her is fixed as an agreed percentage of turnover(amount collected),the contract must stipulate-

(a) a cap on the compensation payable to him/her; and
(b) such compensation must be performance based.

12. CONTRACTING OF SUCCESSFUL BIDDER

12.1 **Issuing of Appointment Letter**

12.1.1 This is undertaken by SCM Unit in consultation with Legal Unit once the adjudication has been finalized, the successful/unsuccessful tenderers are notified in writing.

12.1.2 The following information on the successful bids should be made available on the Municipality website:

- Contract number and description;
- Name(s) of the successful bidder(s), the contract price(s).

12.1.3 Bids are not available for perusal by the public. Any bidder should, when requesting it in writing, be provided with the reasons why his / her own bid was not successful. The reasons why another bidder's bid was unsuccessful should not be supplied, as this may contain privileged information (e.g. a negative banking report). No itemized prices other than the formal contract prices of the successful bidder(s) should be supplied to competitors. According to the prescripts of section 36 of the Promotion of Access to Information Act, No. 2 of 2000, no information may be revealed that will prejudice a third party in commercial competition.

12.1.4 Revealing itemized prices of unsuccessful bidders may reveal their trade secrets / strategies and no such information should be revealed without the written consent of the relevant bidder(s).

12.2 **Negotiations with the preferred bidders**

12.2.1 A preferred bidder(s) is a bidder(s) elected by means of the evaluation and/or adjudication process with whom, municipality intends to possibly conclude contract.

12.2.2 Apart from the directives mentioned in Para 24(1) SCMP, the requirements mentioned in 21.1 below shall also be taken into account. The A/O may authorize the CFO or other S57 Managers whose department is responsible for the bid in question, to carry out the negotiations referred to in Para 24(1) SCMP but minutes of such negotiations must be kept for record or referral purpose

12.2.3 No communication with bidders without authorization-

(a) No person may communicate with a bidder or any other party who has an interest in a bid, on the other hand, and any employee of the local Municipality of Moses Kotane, on the other hand, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification to the successful bidder of acceptance of his tender, quotation or offer, except as provided for in sub-para 21.2.2 hereof. Every such case of unauthorized communication s, in shall forthwith be reported to the SCMU.A bid or quotation in respect of which unauthorized communication has occurred, may be disqualified, in the discretion of the A/O.

(b) The relevant Departmental Head may, subject to the provision of sub-para 21.2.3 hereunder, authorize an employee in writing to communicate with a bidder during the period mentioned in 21.2.1 above for the purpose of, but provided such process does not allow the bidder(s) concerned a second(unfair) opportunity and it is not to detriment of any other bidder-

- Explaining and verification of declarations made in bid response;
- Confirming that the quoted price is correct;
- Confirming technical particulars and the compliance thereof with specifications;
- Determining whether there will be any change in price if only a portion of the work is awarded to a bidder;
- Requesting an explanation for an unreasonable price increase when it is compared with a previous price and the interim movement of a relevant price index;
- Clarifying delivery times/quantities;
- Extending the validity period of a bid, quotation or offer;

- Amending any bid condition, validity period, specification etc. after the closing date in terms of paragraph 22.2 infra;
- Clarifying any other commercial aspect.

12.2.4 In all cases where authority has been granted to communicate with bidders in terms of 11.2.3 above, it should be clearly stated what nature of the communication was as well as by whom such authority to communicate had been granted and at no stage should be of such a nature that the preferred bidder gains the impression that his/her bid will be successful.

12.3 **Amendments of any bid conditions**

12.3.1 Amendments before closing date -

Local Municipality of Moses Kotane is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such bid or quotation before the closing date, provided that such amendments or extension be advertised and/or that all prospective bidders to whom bid documents had been issued, are advised in writing per registered post or per facsimile of such amendment or of the extension, clearly reflecting the new closing date and time. For this reason, employees issuing bids shall keep a record of the names and addresses of the persons or enterprise to which bid documents have been issued.

12.3.2 Amendments after closing date -

The Local Municipality of Moses Kotane is entitled to amend any bid condition, validity period, specification or plan after the closing date of a bid and before acceptance of a bid or quotation has been made, provided that all the parties who obtained bid documents are advised thereof by registered post or per facsimile and are given the opportunity of bidding or quoting on the amended basis or by an extended closing date and time. Authority for such communication is to be dealt with in terms of paragraph 21.2 supra. In the event of a significant change to the specification having been made, to which other(new) bidders may respond, the issue of a fresh tender is preferable.

12.4 **Dealing with bids and quotations if the closing date thereof has been extended**

Where the closing date of a bid or quotation has been extended the notice which makes known such extension shall also mention that bids or quotations already received, will be retained unopened in the bid box and be duly considered after the expiry of the extended period, unless the bidder requests that such bid or quotation

be returned to him/her or unless the bidder cancels the former bid by submitting a later dated bid or quotation before the extended closing date.

12.5 **Signing of Agreement**

12.5.1 Once a bid has been awarded a contractual relationship is established between the municipality and the successful bidder

12.5.2 The required Contract Agreement Form and other relevant documentation must be submitted to the successful bidder within seven (7) days after the bid has been awarded, in duplicate by the SCMU.

12.5.3 The successful bidder shall be given ten (10) days to complete and sign agreement and relevant document in duplicate, and return both sets to SCMU.

12.5.4 The successful bidder must also submit the following documents at the same time, where such documents are required in terms of the conditions of contract:

(a) An applicable surety form which covers the total period of the contract and amount required in terms of the contract and is issued by a recognized bank or insurance company.
(b) Proof of acceptable insurance in respect of the works, goods etc, as required by the conditions of contract, from a recognized bank or insurance company.

12.6 **Record – Keeping of Contract**

12.6.1 The SCMU must take the following steps to maintain a proper system of record-keeping in respect of SCM documents.

12.6.2 All forms and documents related to SCM must be kept in ample supply for distribution as and when required.

12.6.3 All bid documents received for a particular bid (expect successful bid) should be kept in custody for at least six months in case of possible queries and litigation. Thereafter it must be dispatched to the Records Section of HR & CA for disposal in terms of the Archives Act and it regulations.34.5.1.3 Successful bid documents must be retained for a period of one (1) year after the contract has been awarded for inter alia audit purposes. A contract extending over a period of years must be kept for an additional year after completion of contract. These documents must the periods mentioned be dispatched to the Records Section of HR & CA for disposal.

13. OBJECTIONS, COMPLAINTS AND DISPUTES REARDING AWARDS

13.1 The A/O may from time to time appoint an independent and impartial person, not in the service of the municipality or directly involved in the SCM processes, to assist in the resolution of disputes, objections, complaints and queries between the municipality and other person regarding-

13.1.1 any discussions or actions taken in the implementation of the SCMS; or

13.1.2 any matter arising from a contract awarded in the course of the SCMS or;

13.1.3 to deal with objections, complaints or queries regarding any such decisions or actions or any other matters arising from such contract.

13.2 Depending on the nature of the dispute, complaint, objection or query, the A/O shall appoint such a person from the following disciplines;

13.2.1 If it is of a financial nature-a qualified accountant/auditor;

13.2.2 If it is of a technical nature-a qualified engineer, architect or technical advisor; depending on which technical discipline is involved.

13.2.3 If it is of a legal nature or any matter not of a financial or technical nature-a qualified attorney /advocate.

13.3 Disputes should be settled by means of mutual consultation, mediation (with or without legal representation) or arbitration (with or without legal representation.)If a dispute cannot be resolved by any of the above actions, the matter will have to be referred to a South African Court of Law, having the necessary jurisdiction. However, this arrangement does not prevent any of the parties involved to seek immediate relief in a court of law.

14. IMPLEMENTATION OF CONTRACT

14.1 **Alternative Arrangements regarding Sureties and Cessions i.r.o Material under certain circumstances**

14.1.1 In cases where emerging contractors i.r.o engineering / building/ constructions contracts are concerned, obtain necessary surety with an acceptable financial/banking institution or materials required for the relevant contract from an acceptable supplier, the A/O may consider following the guidelines in this respect as set out in Annexure "F" of this manual.

14.1.2 The relevant guidelines (Annexure "F") must form part of the Special conditions of contract applicable to building/engineering/construction project.

14.1.3 SCMU must ensure that the correct contract form are completed and dispatched to the successful bidder –

CONTRACT FORMS TO BE USED

Ordinary supply of Goods and Works

MBD 7.1 - Purchase of Goods/Works
MBD 7.2 - Rendering of Service
MBD 7.3 - Sale of Goods/Works by Moses Kotane

Supply of goods and works or services in Building, Engineering on Construction Industry

CIBD 1015 - Standard Professional Service Contract
CIDB 1016 - Sub-Contract for Labour
CIDB 1018 - General Conditions of Purchase
CIDB 1019 - Contract for Supply of delivery of Goods
C IDB 1020 - Supply of Goods (Short Contract)
CIDB 1021 - Supply Contract

Other forms published by CIDB in regulations 62/2004 and 63/2004 of Government Gazette 26 and 27 dates 09 June 2004.

14.1.4 SCMU must ensure that all relevant documents that form part of the agreement are attached to the contract document for initialing purposes so that a contractor cannot plead ignorance of certain conditions and requirements at a later stage.

14.1.5 Upon receipt of the required documents from the contractor, such documents should be referred to the initial department to verify whether everything is in order.

14.1.6 If the initiating department is satisfied with the documentation it should send it back to the SCMU under cover of form CONT 1, after is in order for the Municipal Manager to sign the agreement.

14.1.7 The Legal Division will peruse all relevant documentation to ascertain whether it conforms to all requirements and if satisfied will certify on CONT 1 that A/O may sign the contract.

14.1.8 After signature of contract documents by Municipal Manager all documentation will be sent back to SCMU who shall retain the one originally signed document for record purposes, send the other original copy of the contractor and a copy thereof to the initiating department.

14.1.9 Once the contract has been completed and all payment made, the SCMU shall refer the original copy of documents it retained to the Records Section of Human Resource & Corporate Administration for record keeping according to the Archives Act and its regulations.

14.1.10 Within seven (7) days after signature of the contract by the Municipal Manager, the initiating department shall issue a letter of appointment to the contractor setting out all details regarding the commencement and requirements of the project as well as supervision thereof.

14.1.11 Within seven (7) days after signature of the contract by the Municipal Manager, the SCMU shall issue the necessary order for the delivery of goods as detailed in the contract, stipulating time, date and address of delivery of the said goods.

14.1.12 Where the contractor fails to commence with the project or deliver the goods within the stipulated time, the initiating department or SCMU, as the case may be, shall immediately take the necessary steps of breach of contract as stipulated and advise the A/O thereof

14.1.13 SCMU are to advice all unsuccessful bidders that their bid failed and also state who the successful bidder was, within (7) days after bid has been awarded.

14.2 **Contract Payments**

14.2.1 SCMU must ensure that no payment is effected against a contract where-

(a) The contract agreement has not been finalized and signed by both parties

(b) Goods have not been delivered or are not in good order, sufficient quality or quantity
(c) A project has not been commenced with or is being executed behind schedule
(d) The necessary security has not been supplied
(e) The necessary insurance has not been taken out

14.2.2 Payment shall be made by SCMU against-

(a) GOODS- unless another period is stated elsewhere in contract, within 30 days after receipt of an official invoice from the supplier for payment and the receipt department is satisfied with goods/delivery
(b) WORKS/CONTRUCTION - receipt of a payment certificate from initiating/responsible department certifying that the amount claimed by contractor is in accordance with-

- The terms and conditions of contract
- Progress schedule
- Acceptable workmanship

14.2.3 Both the responsible department and SCMU shall verify that sufficient funds are available on the budget before any amount is paid.

14.2.4 Interest shall be payable in cases where the municipality delayed payment negligently or for any reason not attributable to the contractor and his performance.

14.2.5 In case where a certain payment was made to a contractor but not justified, the responsible official of the initiating department and/or SCMU shall be held liable in terms of section 32 of MFMA.

15. MONITORING AND EVALUATION OF CONTRACT

15.1 **Monitoring of Contracts**

15.1.1 The S57M of the responsible department shall either himself or through an official or consultant instructed by him/her, in writing, monitor on a monthly basis, the performance of the contractor in terms of the contract and immediately report any mis-performance to the A/O advising him what rectifying steps or measures are being taken to combat the issue. (See section 116(2)(b) MFMA)

15.1.2 The S57M shall ensure that officials of his/her department or a consultant appointed for this purpose, shall oversee the day-to-day management of the contract and agreement and report any deviation to the A/O

15.2 **Variation Orders**

15.2.1 A S57M may not approve any variation order in terms of the contract where the estimated values of the envisaged changes vary more than 15% of the total of the value of the original contract.

15.2.2 In cases of measurable quantities, the contractor may be approached to reduce the unit price and such offers may be accepted provided that there is no escalation in price

15.3 **Extension of Contract**
[Not to be confused with extension of time to complete contract]

15.3.1 Unless the original bid documents and contract contained a specific clause that a contractor may be requested/required to extend a particular contract, no contract may be extended so that transparency, fairness and equality may prevail in the SCMS

15.3.2 An original contract may not be extended for longer than three years unless the stipulations of section 33 of MFMA are adhered to.

15.4 **Yearly Contract**

15.4.1 All yearly contracts for the supply of goods or services in the ensueing year must be advertised globally during May of each year to combat unnecessary advertising costs etc., so that the new contract may be in place by 01 July to make full use of the amounts budgeted for in the ensuring year.

15.4.2 Yearly contract should be encouraged where the buying in bulk of commodities often used by the municipality could bring about substantial savings in cost to the municipality.

15.5 **Termination of Contract**

15.5.1 The moment the responsible department realizes that there is non- or under performance by a contractor, the S57M shall initial the necessary measures in

conjunction with the SCMU and Legal Division of the municipality to terminate such a contract.

15.5.2 Upon completion of a contract, the responsible department shall submit a report to SCMU as to the general performance of the contractor and whether he could be considered for future projects or not. A negative report should however give full details that the relevant contractor had been aware of his/her shortcomings and been afforded the opportunity to rectify matters, but persisted in further non-compliance.

16. GENERAL CONDUCT IN SCM

16.1 COMBATING OF ABUSE OF SCMS

16.1.1 The municipality is adamant that its SCMS shall be operated without a hint or suspicion of abuse. It is therefore expected of every official, but especially those involved with the SCMS in any way, to be alert to any type of possible abuse of the system and to report such instances immediately to the Head: SCMU Who shall keep a register where all such allegations will be recorded and investigate such allegations immediately, submitting a report of his/her findings to the A/O via the CFO

16.1.2 Instance that should be regarded as abuse of the SCMS are, inter alia the following:

(a) Allegations of fraudulent or corrupt practices *, favoritism, unfair or irregular practices. (*See section 2.9.1 of SCMGAO for definition of such practices)

(b) Failure to comply with prescriptions of the MFMA, SCMP, SCMGAO and this manual;

(c) Ensuring that no bid/quotation is awarded to a person/firm whose name appears on the National Treasury's data –base, register for Tender Defaulters or municipal data-base for non-compliance of former contracts dishonesty, fraud corruption, etc

(d) Ensuring that no bid/quotation is awarded to any person/firm who is himself or has close family or acquaintances of him/her employed by any organ of the state;

(e) Collusive practices among bidders/contracts (prior or after submission of quotes/bids/proposal) designed to establish prices at artificial, non – competitive levels or operation of formal cartels.

(f) Splitting of procurement of goods and services onto parts or items of a lesser value merely to avoid complying with the requirements of the SCMP.

(g) Interference or tampering with bids/quotation etc., by persons (including officials and councilors)in any step or aspect of the SCMS to influence the awarding of bids bids/quotations.

16.1.3 Once any evidence or proof of abuse of the SCMS has been found, the A/O shall forthwith take necessary steps against the parties concerned by the way of reporting criminal abuse/practices to the SAPS, disciplinary action against officials/councilors and advise the Council, National and Provincial Treasury in writing of the measures he has taken in such instances.

16.2 **ACTS OF MISCONDUCT AND ETHICAL STANDARDS**

16.2.1 It is utmost importance to maintain a high standard of integrity amongst all officials involved with the SCMS, to promote mutual trust and respect as well creating an environment whereby business relating to procurement can be conducted with integrity in a fair, equitable and transparent manner.

16.2.2 The Council has adopted the Code of Conduct for SCM Practitioners at its special meeting held on 27 September 2005 under resolution A 0378 with provision that where the Code refers to the "State" or "Government" and its official" such reference must be regarded to be applicable to the Municipality of Moses Kotane and its officials.

16.2.3 Officials should thoroughly acquaint themselves with the Ethical Standards enumerated in para 46.2 of the SCMP and not commit any breaches thereof as such contraventions will be regarded in a very serious light and in the discretion of the A/O, will be subjected to disciplinary action.

16.2.4 The CFO shall institute a register wherein all details in respect of gifts, sponsorships, etc received as well as any declaration of interest in a particular contract/bid or quotation is recorded as required by paras 46(2)(d) and(e)SCMP and referred to the A/O quarterly so that he may report such instances to the Executive Mayor.

16.2.5 Although the Code of Conduct for SCM Practitioners has been adopted by the Council, the stipulations of the Code of Conduct for Municipal Staff Members as per Schedule 2 of the MSA remains applicable as well.

16.2.6 For the purpose of transparency and integrity and as required by section 2.4.1 SCMGAO and 6.4 of the Code, the A/O shall clear all members of the BAC at the level of "confidential" and such members will be required to declare their financial interests to the A/O annually.

16.3 SPONSORSHIPS

16.3.1 Any official, councilor or other role player who becomes aware of any sponsorship being promised, offered or granted, whether directly or through a representative or intermediary by any person who is a provider or prospective provider of goods and services to the municipality or any recipient or prospective recipient of goods or assets disposed or to be disposed by the municipality must immediately notify the A/O thereof so that he may promptly disclose such fact to National and Provincial Treasury.